IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13/09/2002

Coram

The Honourable Mr. Justice P.K. MISRA

W.P. No.1954 of 1999

M. Raja ... Petitioner

-Vs-

Tamil Nadu Minerals Ltd.,
rep. By its Chairman &
Managing Director,
TWAD House,
31, Kamarajar Salai,
Chepauk,
Chennai – 600 005. ... Respondent

Petition under Article 226 of The Constitution of India
praying to issue a writ of certiorarified mandamus.

For Petitioner : Mr. K. Sridhar

For Respondent : Mr. Kandavel Doraisami

:O R D E R
Heard learned counsel appearing for both the parties. In this writ petition, the petitioner has prayed for a direction to the respondent to restore the petitioner to the post of 'Project Officer Trainee' after quashing the orders dated 17.11.1988 and 14.01.1999 under the following circumstances:

2. The petitioner has passed B.Sc. Geology and M.Sc. Geology and secured high first class marks. The petitioner had appeared for interview being sponsored by the Employment Exchange for the post of ' Project Officer Trainee' in Tamil Nadu Mineral Limited, a Company fully owned by the State Government. The petitioner was selected for the said post and under letter dated 03.11.1988, he was asked to join as ' Project Officer Trainee' along with several other candidates. He was required to furnish several Certificates at the time of joining. It is not disputed that the petitioner executed a bond as required and joined on 09.11.1988.

3. Thereafter, under letter dated 17.11.1988, the following order was communicated:-

"Due to administrative reasons, Orders issued in the Proceedings 2nd cited

provisionally selecting the following candidates as Project Officer Trainee in this organisation, are cancelled till further orders."

4. It is stated by the petitioner that thereafter, he was patiently waiting for further orders from the respondent, but no further order was communicated to him. Subsequently, the petitioner learnt that new Trainees had been selected and allowed to join. Hence, he made a representation dated 28.10.1998 for which he received a reply dated 3 0.11.1998 stating that the representation of the petitioner is under consideration. Thereafter, on 14.01.1999, an order was passed stating that the petitioner could not be appointed as he has already crossed the age limit of 30 years. In these circumstances, the petitioner has prayed for quashing the earlier order of cancellation and subsequent order dated 14.01.1999 rejecting the representation and has prayed for a direction to the respondent to give employment to the petitioner.

5. A counter affidavit has been filed on behalf of the respondent. The respondent has not denied the basic facts. It has been stated in the counter that the selection was only for the post of Trainees and after that as the respondent has decided that the said posts are not necessary, it has cancelled the appointment which was only provisional. It is also stated that the writ petitioner is guilty of laches as the writ petition is filed after ten years. It has been further indicated that along with the petitioner, five other persons were selected for the post of Trainee, but those persons have not challenged the subsequent cancellation.

6. The contention of the respondent that the petitioner was selected provisionally does not appear to be justified as after the selection, he was allowed to join as a Trainee. It is not disputed that in normal course, after the completion of period of training, the petitioner would have been absorbed as regular employee under the respondent. It is apparent that the petitioner was selected and thereafter on the basis of selection, he was allowed to join as a Trainee. The subsequent cancellation is stated to be for administrative reasons. The cancellation itself indicates that such cancellation is till further orders. It is not disputed that subsequently in the year 1993, the respondent again recruited the Trainees by calling the candidates through Employment Exchange. At that stage, it was the duty of the respondent to reappoint the petitioner as a Trainee as in the order, it was clearly stated that the order of cancellation was "until further orders". Since the cancellation itself was until further orders, it was expected that the present petitioner should have been reappointed when the occasion arose in the year 1993.

7. It is of course true that even after 1993, the petitioner had not immediately filed any case. However, from this alone it cannot be stated that the petitioner is guilty of laches. As per the order, when the petitioner's appointment as a Trainee has been cancelled " until further orders", it was natural for the petitioner to wait for further order from the respondent. If the respondent would have passed any further order, finally cancelling the selection, possibly, the petitioner could have thought of challenging the selection in the Court of law. The respondent had remained

quiet and had not given any intimation. Hence the respondent cannot now state that the petitioner is guilty of laches.

8. Subsequently, when the petitioner has made a representation, it was intimated that such representation was under consideration and few months thereafter, a communication had been issued to the petitioner stating that the representation has not been considered on the account of the fact that the petitioner has crossed the maximum age limit of 30 years. Learned counsel for the petitioner submitted that by the time the petitioner made the representation, he had not crossed the age limit of 30 years. Moreover, at the time of selection, the petitioner was admittedly eligible and he was allowed to join. Therefore, crossing of age limit cannot be taken as a bar as the respondent remained silent all along even though the order of cancellation was until further orders. Moreover, the petitioner had not crossed the age limit, when he made a representation . The representation was kept pending for a few months and thereafter rejected on the ground of age bar. Moreover, it is not disputed that in appropriate cases age bar can be relaxed. In the facts and circumstances of the present case, this is a fit case where upper age limit can be relaxed.

9. Learned counsel for the respondent has submitted that presently an Order has been issued by the Government not to take any fresh candidates and as such any fresh appointment cannot be made. In view of the fact that the petitioner has already been appointed and his appointment had been provisionally cancelled until further orders for so called administrative reasons, the subsequent Government order cannot be utilised against the petitioner to deny him the employment. This is a case where it can be rightly said that the petitioner has legitimate expectation right from the beginning and such expectation has been denied on untenable reasons. Hence, I allow the writ petition and direct the respondent to allow the petitioner to continue his period of tenure.

10. For the aforesaid reasons, the writ petition is allowed and the respondent is directed to allow the petitioner to rejoin duty within a period of one month of the date of communication of the order. However it is made clear that the petitioner shall not be entitled to arrears of salary or seniority for the period prior to the date of rejoining as a Trainee. No costs.

Index : Yes
Internet: Yes.
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To
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